19[illegible]

File No. O. Carriage of Goods/51
Legal Department

A BRANCH

Subject:— Opinion re the Indian Carriage of Goods Act 1925

File No. O. Carriage of Goods

1941

579-A

C O N T E N T S.

Legal Department Vol. No. O. Carriage of Goods/ by Sea / 1951.

S.No.	Compilation No.	Subject.	Pages.
	O. Carriage of Goods by Sea/1951.	Opinions under the Indian Carriage of Goods by Sea Act, 1925.	
1.	R.I.No.5759/22-3-51. O.No. 8059/22-5-51.	Question whether the new rules (directing delivery of import cargo to be taken on and of export cargo to be given on the Pier) requiring ship owners to accept responsibility for cargo discharged into port barges (as the Port Authorities take delivery of it only at the Pier) conflicts with Article I of the Indian Carriage of Goods by Sea Act, 1925. (Please also see R.L.A's No.2781 dt. 13-2-51).	

No. 21-CD(5)/50
GOVERNMENT OF INDIA
MINISTRY OF TRANSPORT
OFFICE OF THE DIRECTOR GENERAL OF SHIPPING
"COMMERCE HOUSE" , CURRIMBHOY ROAD,
BALLARD ESTATE, FORT.

Bombay, the 19th March 1951.

The Remembrancer of Legal Affairs,
Legal Department,
Government of Bombay,
BOMBAY.

Subject:- Port Okha.

Sir,

With reference to the correspondecne ending with your letter No. 1111 dated the 17th January 1951, I have the honour to invite your attention to this office letter No. 21-CD(1)/ 50 dated 25/28th Januxary 1950 and to point out that the point on which this office sought your advice was whether the new rule requiring Shipowners to accept responsibility for cargo discharged into port barges (as the Port authorities take delivery of it only at the pier), conflicts with Article I of the Indian Carriage of Goods by Sea Act, 1925. The view expressed by you that 'if any of the provisions of the said notification are inconsistent with the provisions of the Indain Carriage of Goods by Sea Act, the Okha Harbour Board can suitably amend the notification" does not deal with the point raised. I am therefore to request you kindly to advise this Directorate on this point.

Yours faithfully,

Sd/- DAVID S. ERULKAR.

JOINT DIRECTOR GENERAL OF SHIPPING.

JPE.27/6/56.
4 copies.

L.D.
R.I.No. 5759
5/3

Submitted with reference to letter dated the 19th March 1951 of the Jt. Director General of Shipping.

The facts of the case are detained in this office notes underlying R.L.A's opinion No. 278, dated the 13th Febraury 1951 and are briefly recapitulated below:-

By G.N., R.D. No. 1209/49, dated the 7th November 1949 Schedules A & B of schales of charges at Port Otha have been revised as show in the schedules A & B thereto with effect from 21st November 1949. A foot-note No. 2 has been inserted to the II Part of the Schedule A to the effect that delivery of Import cargo is taken and of export cargo given on the Pier or wharfwall and receipts are exchnged accordingly. The British India Steam Navigation Co. Ltd. pointed out to the Director General of Shipping that this rule was in conflict with the rules set out in the Schedule to the Indian Carriage of Goods by Sea Act, 1925 as article I(e) of the Rules relating 4 Bills of Lading reads as below:-

"Carriage of goods" cover the period from the time when the goods are loaded on to the time when they are discharged from the ship. The Jt. Director General of Shipping did not agree with this interpretation placed on Article I by B.S.N.Co. Ltd. and requested for R.L.A's view. The R.L.A. in his opinion observed that if any of the provisions of the said notification are inconsisitent with the

provisions of the Indian Carriage of Goods by Sea Act, 1925, the Okha Harbur Board can suitably amend the notification etc. The Jt. Director General of shipping points out that this does not deal with the point raised by him. viz. whether the new rules (directing delivery of import cargo to be taken on and of export cargo to be given on the Pier) requiring shipowners to accept responsibility for cargo discharged into port burges (as the Port authorities take delivery of it only at the Pier) conflicts with Article II of the Indian Carriage of Goods by Sea Act, 1925.

JPE.27/6/56.54c.

Legal Department.

Under Artikcle 1(c) of the Schedule to t the Indian Carriage of Goods by Sea Act 1925 "Carriage of goods" covers the period from the time when the goods are loaded to the time when they are discharged from the ship. This means that the contract of carriage begins with the receiptx of goods on the ship and ends with the discharge thereof from the ship. Obviously the receipt and discharge of goods would be in the stream at the port. Consequently the foot note 2 to Part II of Schedule A to R.D. Notification No. 1209/49 dated 7th November 1949 which appears to contemplate the receipt and discharge of goods on the pier or wharf-wall, as constituting the contract, would contravene the provisions of the Indian Carriage of Goods by Sea Act 1925 and it requires to be amended.

Sd/- ....

Additional Secretary to Government.

Letter to J.D.G.S. No. 8059,
dated the 22nd March 1951.

JPE.27/6/56.
4 copies.